

**2001**

**LEGISLATIVE ASSEMBLY OF THE AUSTRALIAN CAPITAL TERRITORY**

**TOBACCO AMENDMENT BILL 2001**

**EXPLANATORY MEMORANDUM**

**Circulated by the authority of Michael Moore MLA  
Minister for Health, Housing and Community Services**

## ***Tobacco Amendment Bill 2001***

### **1. Introductory**

The amendments contained in this Bill are intended to:

- provide a definition of 'point of sale' with reference to such a place being identified in accordance with regulations, and
- provide that a health warning notice must be displayed at a tobacco point of sale display in accordance with the regulations.

By allowing regulations to be made with respect to a 'point of sale', the Bill allows for more detailed criteria to be specified in order to identify a 'place' within a retail or wholesale outlet which is a tobacco 'point of sale'.

The intention of shifting the detailed requirements for a health warning notice from the *Tobacco Act 1927* to regulations is to provide for greater flexibility in making changes to these requirements in terms of the content and presentation of the notices and, in particular, ensuring that they are kept effective and timely.

### **2. Financial Implications**

There are no financial implications for the ACT of these amendments.

### **3. Clause 1 Name of Act**

Clause 1 provides that the Act may be cited as the *Tobacco Amendment Act 2001*.

### **4. Clause 2 Commencement**

Clause 2 provides that the Bill commences 7 days after it is notified in the Gazette. The delayed commencement is intended to coincide with the making of the necessary regulations under section 22.

### **5. Clause 3 Act amended**

Clause 3 specifies that this Act amends the *Tobacco Act*.

### **6. Clause 4 Definitions for Act – Section 2, definition of 'point of sale'**

Clause 4 substitutes a new definition of 'point of sale' for the existing definition in Section 2 of the *Tobacco Act*. The new definition inserts the words 'identified in accordance with the regulations (if any) after the words 'point of sale means a place'. This amendment provides for the making of regulations containing more detailed criteria for identifying points of sale. The intention is to add greater clarity to the notion of a 'place' where tobacco products are sold within a retail or wholesale outlet.

The criteria for identifying a point of sale may include such factors as: the area being a discrete area within the outlet, having the display of smoking products at or adjacent to the customer service area, (even if the display is not visible from all parts of the customer service area), and the ability for all parts of the area to be supervised from a single vantage point.

**7. Clause 5 Health warnings at point of sale displays - Section 22**

Clause 5 substitutes a new Section 22 in the *Tobacco Act* to replace the existing Section 22. The new Section 22 provides that an occupier of a retail or wholesale outlet must display a health warning notice prescribed under the regulations at or adjacent to each tobacco point of sale display (other than a vending machine) at that outlet.

The existing Section 22 contains detailed requirements for the characteristics of health warning notices and the manner of their display. The new Section 22 replaces these provisions in the Act and refers to a health warning notice as prescribed under the regulations.

The maximum penalty for an offence against Section 22 remains as 50 penalty units.